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FOR THE CONGRESS OF THE UNITED STATES

For Release on Delivery

January 24, 2000

**A PRELIMINARY
ASSESSMENT OF AMTRAK**

**THE FIRST ANNUAL REPORT
of the
AMTRAK REFORM COUNCIL**

This year's report does not reach any conclusions or make recommendations about Amtrak's long-term future. It provides a picture of the Amtrak organization as it exists today, it presents our perspective on Amtrak's performance to this juncture, and it raises questions and issues that the Council believes should be addressed in its future efforts and, ultimately, by the Congress."

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*The ARC is an independent federal commission established under the
Amtrak Reform and Accountability Act of 1997 (P. L. 105-134)*

EXECUTIVE SUMMARY

A Prefatory Note

In 1997, the Congress enacted, and the President signed into law, the Amtrak Reform and Accountability Act of 1997 (the ARAA), reform legislation requiring, that Amtrak operate, without “Federal operating grant funds” by the end of FY2002 (i.e., after September 30, 2002). The Congress also established the Amtrak Reform Council (the Council) a bi-partisan oversight body, charged with, among other tasks, monitoring Amtrak’s progress in improving its financial performance to achieve the goals of the ARAA.

The Council’s other principal tasks include: (i) reporting to Congress annually; (ii) evaluating Amtrak’s performance and making recommendations to Amtrak for improvement; (iii) recommending to Congress changes in the law believed necessary or appropriate; and (iv), should the Council find, on or before the end of FY2002, that Amtrak will not meet the financial goals of the Act, developing an action plan to restructure and rationalize the national system of intercity rail passenger services and submitting the plan to the President and the Congress within 90 days of any such finding.

The principal criteria and work guidelines the Council is using are: (i) Amtrak’s institutional framework and organization must be well structured; (ii) Amtrak must conduct its core business with efficiency; (iii) Amtrak’s financial operations must be transparent, that is, the financial performance and condition of each of Amtrak’s business units must be clearly reported and readily understandable; and (iv) Amtrak’s management and Board must be accountable for their actions.

The Council wishes to make clear to all readers, especially the Congress, that this is a statutorily-required annual report, and, as such, it is not in any sense a finding, nor does it address the issue of a finding by the Council. Were the Council to make a finding at some future date, such a finding would be the subject of a separate report.

Summary of the Report

Amtrak Today. During a decade when the American economy and most of its transportation system have expanded in an unprecedented manner, Amtrak’s ridership has remained virtually unchanged. Amtrak’s financial losses led the Congress to enact the ARAA in an attempt to reform the corporation. Amtrak’s legal and regulatory framework, as amended by the ARAA, prescribes, among other things, that Amtrak:

- Over the five fiscal years from FY1998 through FY2002, wean itself from the need for federal grant funding to cover its “operating losses”;
- Should no longer have a legal monopoly over intercity passenger rail service, though Amtrak retains special statutory access to the track network system of the private railroads at incremental cost and with operating priority;
- Has complete authority to determine its national system of routes and services in response to the marketplace; and

- Is no longer subject to specific statutory provisions governing its agreements with its employees concerning labor protection and contracting out; the disposition of these issues is now to be determined at the labor-management bargaining table.

Under this legal framework, Amtrak, performs an exceptionally broad range of complex functions. Amtrak is:

An Intercity Rail Passenger Transportation Operator (Amtrak's Core Business) -

1. As its core business, Amtrak is an intercity rail transportation operating company, that moves passengers, mail and express throughout the Continental U.S.; and
2. Integral to its core business, it manages equipment assets, including approximately 345 locomotives and 1,962 cars;

An Infrastructure Company for the Northeast Corridor –

3. An infrastructure operations company, as established by statute, principally for most of the Northeast Corridor's (NEC) complex set of tracks, bridges, tunnels, stations, signals, and communications between Washington, DC, and Boston, MA;
4. An engineering company, responsible for maintaining and improving most of the NEC's infrastructure;
5. A telecommunications and signaling (process control) company;

A Rail Equipment Manufacturing, Maintenance, and Repair Company –

6. that participates in the manufacture, re-manufacture, maintenance, and repair of locomotives and passenger coaches;

A Contractor or Potential Contractor –

7. to domestic rail commuter agencies;
8. to foreign rail passenger agencies (Amtrak bid on such a contract in Australia);

A Real Estate Development Company –

9. for the stations and other real estate that it owns;

An Entity That Functions in Certain Respects As If It Were a Federal Agency –

10. dealing independently with the Office of Management and Budget and the Congress on annual levels of federal appropriations;
11. contributing to federal policymaking, along with the Congress and the Executive Branch, for the nation's intercity rail passenger system;
12. at times functioning as if it were a grant-in-aid agency, dispensing funds to states and localities for projects that, while generally contributing to the development of intercity rail passenger service, may not have any beneficial effect on Amtrak's financial performance; and
13. operating as a federally-chartered corporation, with a Board nominated by the President and confirmed by the Senate, and with no input from its common stockholders.

To fund Amtrak, the Congress has appropriated since 1971 more than \$23 billion, an average of about \$790 million per year. Amtrak's funding has actually been provided in a very erratic fashion, and with significant political influence over how and where it spends its money, making it difficult for Amtrak to plan effectively, and, on a system-wide basis, to implement the most beneficial major capital expenditures.

Measuring and Monitoring Amtrak's Financial Performance. There are two approaches to monitoring Amtrak's financial performance: (i) financial statements prepared under generally accepted accounting principles (GAAP), which the Council believes that ARAA prescribes, and which measure the financial performance of for-profit corporations (which Amtrak – under the law – was established to be); and (ii) Amtrak's test for operating self-sufficiency. Amtrak believes that federal legislation and historical practices in place in FY97 result in an implied test of operating self-sufficiency that excludes certain items that are included in GAAP financial statements. These differences are summarized below.

Amtrak's Interpretation of the Appropriate Measurement Test of Operating Self-Sufficiency					Assuming Full GAAP Accounting FY2002
	FY 1999	FY2000	FY2001	FY2002	
Revenues	1,866	2,184	2,396	2,501	2,501
Expenses	(2,796)	(3,092)	(3,215)	(3,253)	(3,253)
Operating Profit/(Loss)	(930)	(908)	(819)	(752)	(752)
Progressive Equipment Overhauls	76	77	78	80	
Depreciation/Noncash Expenses	370	469	499	487	
Budget Gap	(484)	(362)	(242)	(185)	(752)
Excess Mandatory Railroad Retirement Taxes	166	172	179	185	185
Test For Self Sufficiency	(318)	(190)	(63)	0	(567)

Amtrak's Financial Performance in 1999. The preliminary financial results for FY1999 (ended September 30, 1999) are \$8 million better than projected in Amtrak's 1998 Strategic Business Plan. But this positive variance is more than fully attributable to higher than projected net earnings from Commuter, Reimbursable and Commercial activities, which were \$19.6 million ahead of the projections, due to renegotiated contracts for easements, flagging costs to contractors on the NEC, and increased charges to state and local governments and commuter authorities. Amtrak's core business of providing intercity rail passenger service actually performed marginally worse than anticipated in the FY1999 Plan. Amtrak needs to achieve step-level improvements in operating and financial performance during the two key years of FY2000 and FY2001 to meet its Plan goal by the end of FY2002. Amtrak projects approximately \$125 million of improvements in both FY2000 and FY2001 due primarily to the introduction of the new Acela Express Service. The Council cannot determine the impact of the Acela delay until it receives additional information from Amtrak, including Amtrak's Strategic Business Plan for FY2000 to FY2004, which Amtrak has not yet released.

Risks And Opportunities Amtrak Faces in Achieving Operating Self-Sufficiency. As in any endeavor, Amtrak's planning, and its implementation of its plans, involve certain risks and opportunities:

Risks faced by Amtrak include: (i) revenue shortfalls, primarily in Amtrak's Intercity operations; (ii) schedule delays, or lengthening, due to freight railroad congestion; (iii) NEC revenue shortfalls due to delayed introduction of Acela trainsets and potential

resistance to the fare premium anticipated for Acela Express trains over other NEC Amtrak trains; (iv) the possible difficulties with continuing to increase the financial support received from states and commuter agencies; (v) possible increases in airline competition, particularly in the NEC; and (vi) political interference with its network, operations and funding.

Opportunities available to Amtrak include: (i) improving capital productivity through programs to repair equipment faster and keep fewer spares; (ii) increasing revenue-generating capacity by selectively increasing density of seating in certain equipment types, possibly creating additional train sets; (iii) earning higher revenues through better yield management practices; (iv) earning higher revenues from additional profitable Mail & Express business; and (v) earning revenues from higher ridership due to increasing traffic congestion and air traffic control delays in select, short, high-density corridors.

Statutorily Assigned Tasks. The ARAA charges the Council with three specific tasks on which it is to report each year:

Amtrak's Use of Taxpayer Relief Act of 1997 (TRA) Funds: Because Amtrak had executed more than 81,000 financial transactions from its TRA account, conducting a thorough assessment of Amtrak's use of TRA funds was beyond the resources available to the Council. The Congress, therefore, assigned a review of Amtrak's use of TRA funds through June 30, 1999, to the General Accounting Office (GAO), which is scheduled to issue its report in February 2000. While the Council will await the GAO's analysis before making its final evaluation, from data available at this point, the Council is concerned that Amtrak has not used a significant portion of the funds for the kinds of high-priority, high-return investments that will help its bottom line.¹

Productivity Improvement: Section 203 (h) of the ARAA specifically charges the Council with monitoring and evaluating Amtrak's management efficiency and its progress in achieving labor productivity improvements. Accordingly, the Council requested that Amtrak provide certain information. Amtrak and the Council are working together to define additional productivity data requirements and to agree on acceptable methodologies both for measuring cost savings achieved through work-rule changes and for monitoring general labor productivity. Agreement is essential if the Council is to be able to meet statutory reporting requirements of the ARAA.

¹ Other issues related to Amtrak's ongoing financial operations include its use of TRA funds and its investment planning. Based on preliminary information, significant amounts of the TRA funds are being borrowed temporarily for maintenance expenditures rather than being immediately invested by Amtrak in high priority, high return capital projects necessary to achieve the improvements in financial performance initially anticipated when Section 977 of the TRA was enacted. If these temporary loans are not repaid, such expenditures for maintenance (which are permitted under the TRA) will likely result in the need for increased capital investment funding by the federal government and others in the future. In addition, Amtrak has not produced a long-term capital expenditure plan for several years. The Council, the Congress, and other governmental agencies need Amtrak's long-term capital expenditure plan to carry out their statutory obligations.

Recommendations for Closures or Realignments of Amtrak's Routes or Services:

Amtrak's management commissioned a new analytical and network planning tool, called the Market-Based Network Analysis (MBNA). Though the Council has received information about the capabilities of the MBNA methodology, the products of the analysis that Amtrak has conducted using the MBNA methodology have not yet been made available to the Council.

Recommendations for Improvement that the Council has forwarded to Amtrak: The ARAA requires the Council to evaluate Amtrak's operations and to make recommendations for improvement to the corporation. In November 1999, the Council recommended that Amtrak's Board consider:

- Conditional upon receiving confirmation from Amtrak of the profitability of **Mail & Express (M/E)** traffic: (i) augmenting Amtrak's M/E staff; (ii) adding M/E equipment to its fleet; and (iii) setting up the M/E business as a separate strategic business unit for planning and financial reporting purposes, with transparent accounting of its revenues and expenses.
- Setting up the operations of the **NEC fixed plant as a profit center** within the NEC Business Unit, with its own clear and accurate income statement, balance sheet, and capital plan. The NEC fixed plant, which is critical to the successful operation of the Acela Express service, requires substantial sums, as much as \$5-7 billion according to the Department of Transportation, to fund deferred maintenance and delayed capital expenditures.
- As part of its normal annual strategic business planning processes, identifying risks of not achieving, along with opportunities to exceed, its business plan objectives, and **develop contingency plans for corrective actions** that would be approved by its management and Board within its overall business plan.
- Implementing a **program for annual cost savings from reductions** in Amtrak's corporate overhead, bench-marking the size of Amtrak's corporate overhead compared to its overall business volume. Lowering costs would assist Amtrak in retaining and expanding its net revenues from commuter and subsidized intercity passenger business.
- Identifying annually in its Strategic Business Plan readily measurable, **minimum business plan objectives**, including service objectives, operating objectives and financial objectives, and reporting and comparing its actual performance against its minimum business plan objectives.

Issues and Next Steps. This report highlights concerns and issues for the Congress concerning Amtrak. Looking at such issues now will foster public discussion and debate, allowing time for more coherent public policy development if the Congress determines that changes are needed. This section also describes the Council's expected activities in the coming year.

Issues. Intercity rail passenger service, in our country's longest sustained period of economic expansion, is not growing. Amtrak in 1998 carried about the same number of passengers that it did in 1990, and its service levels have essentially remained static during

this period. If intercity rail passenger service is to thrive, what steps might be taken? The following issues should be thoroughly examined:

- Is Amtrak's institutional structure adequate, based on Amtrak's performance and lessons learned from structural models used in other industries or other countries?
- Given the long-term concerns about the adequacy and transparency of Amtrak's financial disclosure and reporting, including long-term capital planning, are there steps that should be taken to improve the clarity of Amtrak's financial reporting?
- Regarding passenger service's quality and its responsiveness to the marketplace, does Amtrak's effective monopoly over passenger service promote delivery of high-quality, efficient, and economical service? If not, how could competition be introduced into the provision of rail passenger services? If competition is not introduced, what is the implication for public funding requirements?
- In the funding context, has funding for operating and capital needs been adequate? If not, by how much, for how long, and for what purposes has it been inadequate, and for what purposes should Congress provide additional funds? Should the future funding be for just capital investments, or will operating subsidies also be required? What means will ensure that future funding mechanisms incorporate transparency and accountability? And to what extent should future funding mechanisms promote competition in the provision of rail passenger services?

Next Steps. The milestones for calendar year 2000, as of the date of this report, are listed below, though the dates are subject to change:

January	The Council submits its first annual report
February	GAO releases report on Amtrak's use of TRA funds
May	GAO releases report on Amtrak's capital needs and cost control
June-July	DOT's Office of Inspector General releases its analysis of Amtrak's MBNA Process and new Strategic Business Plan
December	Preparation of the Council's second annual report

Over the coming year, the Council will further examine such key issues as: (i) changes in institutional structure that might improve the quality, economy, and efficiency of intercity rail passenger services in the US; (ii) Amtrak's capital structure including issues pertaining to its stock and the US Government's mortgage lien on the NEC; (iii) potential improvements in the structure for providing financing for the federal investment in Amtrak and intercity rail passenger service; (iv) options for implementing the provisions of existing law that permit the introduction of competition into the provision of intercity rail passenger service; (v) possible improvements in Amtrak's financial reporting requirements, to include its train operations, the NEC fixed plant, and its Mail and Express service; and (vi) measures to improve the productivity of Amtrak's assets, employees, and use of energy and materials.